

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF IOWA  
WESTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

ALEJANDRO GAMEZ-MARQUEZ,  
a/k/a Alejandro Marcos  
Gamec; a/k/a Alejandro  
Marcos Gamez; a/k/a  
Alejandro Marcus Gamez,

Defendant.

No. 09-CR-4054-DEO

ORDER  
ACCEPTING REPORT AND  
RECOMMENDATION CONCERNING  
GUILTY PLEA

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**I. INTRODUCTION AND BACKGROUND**

On October 22, 2009, a one count Indictment (Docket No. 2) was returned in the above-referenced case.

Count One of the Indictment charges that on or about September 29, 2009, in the Northern District of Iowa, defendant Alejandro Gamez-Marquez, a/k/a Alejandro Marcos Gamec; a/k/a Alejandro Marcos Gamez and Alejandro Marcus Gamez, an alien, was found in the United States after having been removed from the United States. Defendant had been removed on or about October 11, 2007,<sup>1</sup> and had not obtained

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<sup>1</sup>Defendant's removal was subsequent to a conviction for an aggravated felony offense, to wit:

On or about September 12, 2006, ALEJANDRO

(continued...)

the express consent of the Attorney General of the United States or his successor, the Secretary for Homeland Security (Title 6, United States Code, Section 202(3) and (4) and Section 557), to reapply for admission to the United States.

This was in violation of Title 8, United States Code, Sections 1326(a) and 1326(b)(2).

On December 22, 2009, defendant Alejandro Gamez-Marquez appeared before Chief United States Magistrate Judge Paul A. Zoss and entered a plea of guilty to Count One of the Indictment. In the Report and Recommendation (Docket No. 17, 12/22/2009), Chief United States Magistrate Judge Paul A. Zoss recommends that defendant Alejandro Gamez-Marquez's guilty plea be accepted. No objections to Judge Zoss's Report and Recommendation were filed. The Court, therefore, undertakes the necessary review to accept defendant Alejandro Gamez-Marquez's plea in this case.

## **II. ANALYSIS**

### **A. Standard of Review**

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<sup>1</sup>(...continued)

GAMEZ-MARQUEZ was convicted of Assault with a Deadly Weapon, in the Superior Court of California for Orange County.

Pursuant to statute, this Court's standard of review for a magistrate judge's Report and Recommendation is as follows:

A judge of the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made. A judge of the court may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate [judge].

28 U.S.C. § 636(b)(1). Similarly, Federal Rule of Civil Procedure 72(b) provides for review of a magistrate judge's Report and Recommendation on dispositive motions and prisoner petitions, where objections are made as follows:

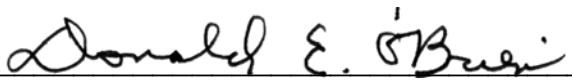
The district judge to whom the case is assigned shall make a de novo determination upon the record, or after additional evidence, of any portion of the magistrate judge's disposition to which specific written objection has been made in accordance with this rule. The district judge may accept, reject, or modify the recommendation decision, receive further evidence, or recommit the matter to the magistrate judge with instructions.

FED. R. CIV. P. 72(b).

In this case, no objections have been filed, and it appears to the Court upon review of Chief Magistrate Judge Zoss's findings and conclusions that there are no grounds to reject or modify them.

**IT IS THEREFORE HEREBY ORDERED** that this Court accepts Chief Magistrate Judge Zoss's Report and Recommendation (Docket No. 17), and accepts defendant Alejandro Gamez-Marquez's plea of guilty in this case to Count One of the Indictment filed on October 22, 2009, (Docket No. 2).

**IT IS SO ORDERED** this 27th day of January, 2010.

  
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Donald E. O'Brien, Senior Judge  
United States District Court  
Northern District of Iowa